

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CLIFTON JAMES MERRIWEATHER,

Defendant-Appellant.

UNPUBLISHED

November 10, 2005

No. 253750

Wayne Circuit Court

LC No. 03-010718-01

Before: Murphy, P.J., and Sawyer and Meter, JJ.

MEMORANDUM.

After a bench trial, defendant was found guilty of two counts of assault with intent to do great bodily harm less than murder, MCL 750.84 (as a lesser included offense of assault with intent to murder), felon in possession of a firearm, MCL 750.224f, carrying a concealed weapon (CCW), MCL 750.227, discharge of a firearm from a motor vehicle, MCL 750.234a, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. Defendant was sentenced as a fourth habitual offender, MCL 769.12, to concurrent prison terms of eight to twenty years for each count of assault with intent to do great bodily harm less than murder, and one to five years each for his felon in possession, CCW, and discharge of a firearm convictions. Defendant also received a consecutive sentence of two years' imprisonment for his felony-firearm conviction. Defendant now appeals as of right, and we affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole argument on appeal is that insufficient evidence was adduced at trial on the issue of intent to support his assault with intent to do great bodily harm less than murder convictions. We disagree. In reviewing a challenge to the sufficiency of the evidence, we view the evidence de novo in the light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999).

The victims in this case, Wendell and Monique Vance, were shot while driving in their minivan. Mrs. Vance testified that she noticed defendant pull along side their vehicle and then say "bitch." Defendant then fired two or three shots, at close range, at the Vances' vehicle. Two bullet holes were found on the side of the Vances' vehicle. Both of the Vances were injured, with Mr. Vance suffering a severe head wound that has seriously impaired his eyesight. Viewed in a light most favorable to the prosecution, this is sufficient evidence of intent to support

defendant's convictions of assault with intent to do great bodily harm less than murder. See *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997).

Defendant argues that if he had intended to inflict great bodily harm less than murder, he would have maneuvered in front of the Vances' van and shot at them through the windows. However, the fact that defendant did not shoot from such a vantage point and did not strike the windows of the minivan does not rule out that he acted with the requisite intent. In other words, the fact that he might have been more efficient in shooting at the Vances does not exclude a finding that he intended to inflict great bodily harm less than murder. Indeed, the fact that both Vances were wounded as they were evidences that defendant was fully capable of inflicting great bodily harm from the position in which he fired.

Affirmed.

/s/ William B. Murphy

/s/ David H. Sawyer

/s/ Patrick M. Meter